

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

327I0808

## SENATE ENGROSSED NO. **HB 1284** - 03/07/2003

Introduced by: Representatives Peterson (Bill), Madsen, Michels, Olson (Mel), and Rhoden  
and Senators Bogue and Moore

1 FOR AN ACT ENTITLED, An Act to reduce prejudgment and postjudgment interest rates in  
2 inverse condemnation actions and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-3-5.1 be amended to read as follows:

5 54-3-5.1. Interest is payable on all judgments and statutory liens, exclusive of real estate  
6 mortgages and security agreements under Title 57A, and exclusive of support debts or judgments  
7 under § 25-7A-14, at the Category B rate of interest as established in § 54-3-16 from and after  
8 the date of judgment and date of filing statutory lien. On all judgments arising from inverse  
9 condemnation actions, interest is payable at the Category A rate of interest as established by  
10 § 54-3-16.

11 Section 2. That § 21-1-13.1 be amended to read as follows:

12 21-1-13.1. Any person who is entitled to recover damages, whether in the principal action  
13 or by counterclaim, cross claim, or third-party claim, is entitled to recover interest thereon from  
14 the day that the loss or damage occurred, except during such time as the debtor is prevented by  
15 law, or by act of the creditor, from paying the debt. Prejudgment interest is not recoverable on



1 future damages, punitive damages, or intangible damages such as pain and suffering, emotional  
2 distress, loss of consortium, injury to credit, reputation or financial standing, loss of enjoyment  
3 of life, or loss of society and companionship. If there is a question of fact as to when the loss or  
4 damage occurred, prejudgment interest shall commence on the date specified in the verdict or  
5 decision and shall run to, and include, the date of the verdict or, if there is no verdict, the date  
6 the judgment is entered. If necessary, special interrogatories shall be submitted to the jury.  
7 Prejudgment interest on damages arising from a contract shall be at the contract rate, if so  
8 provided in the contract; otherwise, if prejudgment interest is awarded, it shall be at the Category  
9 B rate of interest specified in § 54-3-16. Prejudgment interest on damages arising from inverse  
10 condemnation actions shall be at the Category A rate of interest as specified by § 54-3-16 on the  
11 day judgment is entered. This section shall apply retroactively to the day the loss or damage  
12 occurred in any pending action for inverse condemnation. The court shall compute and award  
13 the interest provided in this section and shall include such interest in the judgment in the same  
14 manner as it taxes costs.

15 Section 3. Whereas, this Act is necessary for the support of the state government and its  
16 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
17 force and effect from and after its passage and approval.